

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

DANIEL LOVELACE and
HELEN LOVELACE, Individually, and as Parents of
BRETT LOVELACE, deceased,

Plaintiffs,

Vs.

No. 2:13-cv-02289-JPM-dkv
JURY TRIAL DEMANDED

PEDIATRIC ANESTHESIOLOGISTS, P.A.;
BABU RAO PAIDIPALLI; and
MARK P. CLEMONS,

Defendants,

And

STATE OF TENNESSEE,

Defendant-Intervenor.

**UNOPPOSED MOTION OF DEFENDANTS, PEDIATRIC
ANESTHESIOLOGISTS, P.A., AND BABU RAO PAIDIPALLI, FOR
LEAVE TO FILE REPLY BRIEF**

Come now the Defendants, Pediatric Anesthesiologists, P.A., and Babu Rao Paidipalli, by and through the undersigned counsel of record, and pursuant to Local Rule 7.2(c) files this motion and memorandum, seeking leave to file a reply brief, to reply to Plaintiffs' Response in opposition to Defendants' Motion For Qualified Protective Order pursuant to Tenn. Code Ann. § 29-26-121(f) (seeking an order allowing Defendants' counsel to interview, outside the presence of the plaintiffs and the plaintiffs' counsel, the

patient's healthcare providers identified in Defendants' Motion).

On December 6, 2013, Defendants filed their Motion For Qualified Protective Order ("Motion") (ECF 59) and a supporting memorandum of law (ECF 59-1). Plaintiffs requested an extension of time to file a Response to Defendants' Motion, which was granted without opposition, and on January 7, 2014, Plaintiffs filed a Response (ECF 83) and supporting memorandum of law (ECF 84) in opposition to Defendants' Motion. Plaintiffs' Response and supporting memorandum of law raise new issues not raised in Defendants' Motion, including: (1) the issue of whether or not the Health Insurance Portability Act of 1996 ("HIPAA") preempts Tenn. Code Ann. § 29-26-121(f); (2) the issue of whether or not the health care providers identified in Defendants' Motion "possess relevant information"; and (3) the issue of whether or not Defendants should be required to record Defendants' *ex parte* interviews with the patient's health care providers, if such interviews are allowed, or alternatively, whether Plaintiffs' counsel should be allowed to attend Defendants' "ex parte" interviews with the patient's health care providers. In order to address the new issues raised in Plaintiffs' Response, Defendants request leave of Court to file a Reply brief.

Plaintiffs' counsel has advised Defendants' counsel that Plaintiffs do not oppose this motion.

Respectfully submitted,

THE HARDISON LAW FIRM, P.C.

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CERTIFICATE OF CONSULATION

Pursuant to Local Rule 7.2(a)(1)(B), I hereby certify that on January 14, 2014, counsel for defendants, Babu Rao Paidipalli and Pediatric Anesthesiologists, P.A., consulted with Mark Ledbetter, counsel for plaintiffs, Daniel and Helen Lovelace, with J. Kimbrough Johnson and Marcy Dodds Magee, counsel for defendant, Mark P. Clemons, and with Stephanie Bergmeyer, counsel for the State of Tennessee, via e-mail concerning the contents of this motion, and that this motion is not opposed.

s/David M. Cook
David M. Cook

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been served via the Court's electronic filing system upon:

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this 14th day of January 2014.

s/David M. Cook
DAVID M. COOK